



HAINES & ASSOCIATES

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June 20, 2016

VIA ELECTRONIC FILING SYSTEM

Honorable Gary R. Brown
United States District Court
Eastern District of New York
944 Federal Plaza
Central Islip, NY 11722

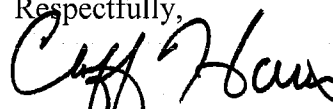
**RE: James McCusker v. hibu plc, et al.
E.D.N.Y. Civil Docket 2:15-cv-2659**

Dear Judge Brown:

As I wrote to you recently on June 10, 2016, I and my partner on the above referenced case, are presently on trial in the matter of *Seidner v. Finkelman* in the Pennsylvania Court of Common Pleas, Philadelphia County, which appears on the docket as October Term 2012, No. 02883. The trial began on June 6, 2016 before the Honorable Frederica Massiah-Jackson and a mistrial was declared on June 13, 2016. Thereafter, the proceedings began anew before the Honorable Robert P. Coleman on June 15, 2016. I expect to be on trial through Monday, June 27, 2016, at least.

I advised my opponent, Mr. Cohen, in the above-referenced matter of these circumstances because there is a Court Ordered deposition of my client, Mr. McCusker, scheduled for June 22, 2016 in New York. For obvious reasons, neither I nor my partner can be there to defend the deposition. Mr. Cohen indicated in response to my email that he did not agree to adjourn the deposition, despite my trial schedule. In part, he objected because the deposition was Ordered by the Court. I attach the email exchange for your consideration. I regret that it has become necessary to involve the Court in what should be a matter for counsel to resolve cordially between and among themselves. Unfortunately, that is not possible here. Accordingly, I request that the Court enter an Order granting a continuance of the deposition and directing the parties to reschedule the deposition on a mutually convenient date.

Respectfully,



CLIFFORD E. HAINES

CEH/

cc: Bret Cohen, Esquire (via email)

EXHIBIT A

Danielle Weiss

From: Cohen, Bret <BCohen@mintz.com>
Sent: Friday, June 17, 2016 5:20 PM
To: Clifford Haines
Cc: Danielle Weiss; Debbie O'Neill; Punjabi, Gauri; Daly, Susan
Subject: RE: McCusker deposition
Attachments: Activity in Case 2:15-cv-02659-LDW-GRB McCusker v. HIBU PLC et al Order on Motion to Compel

Cliff,

First, just so that there is no misunderstanding, the deposition is scheduled for Wed, June 22nd, not the June 23rd as your email states.

Second, we are under court order to take that deposition on June 22nd. I'm not going to defy the Court's order and I don't believe we can even by agreement between us change the date unless the Court assents.

Finally, especially given that we could not get a date from you for your client's deposition without order, we must ask why you waited until 430 pm on Friday to let us know of your conflict when you have known since Monday of this potential issue.

Bret

From: Clifford Haines [<mailto:chaines@haines-law.com>]
Sent: Friday, June 17, 2016 4:30 PM
To: Cohen, Bret; Punjabi, Gauri
Cc: Danielle Weiss; Debbie O'Neill
Subject: McCusker deposition

On Monday of this week (June 13, 2016) the case I had been trying since June 6th ended with a mistrial. We were ordered to begin the retrial on Thursday the 16th and picked a jury that morning. We are scheduled to begin evidence on Monday June 20th. The case will take at least the remainder of next week. I will be unable to produce Mr. McCusker for deposition on the 23rd.

Please give me some July dates so that we can reschedule .

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